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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/489,373	01/21/2000	Edward J. Koplar	55121-88011	5751

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EXAMINER

SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/489,373	Applicant(s) KOPLAR ET AL.	
	Examiner Dominic D. Saltarelli	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 98,99 and 108 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 98,99 and 108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed march 28, 2006 have been fully considered but they are not persuasive. As shown in the new grounds of rejection below, Bullock also teaches the amended limitations of providing a sequence of LED indicator lights to inform the user of which promotional opportunities have been received by the user (see Bullock, column 7).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 98 and 99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nemirofsky (5,594,493) in view of Bullock et al. (5,070,404, of record) [Bullock].

Regarding claim 98, Nemirofsky discloses a method of interactive advertising and promotion, the method comprising:

providing a hand-held device (device shown in figs. 5-8 for providing promotional opportunities, col. 7, lines 25-49), comprising a receiver (fig. 5, photodetector 70) disposed on the hand-held device for receiving data from a display device (Light from TV screen, fig. 5) and a central processing unit (fig. 5, microprocessor 26), transmitting auxiliary data to the hand-held device from the

display device, the auxiliary data being associated with the promotion opportunity of a sponsor (col. 11, lines 30-42), and receiving the auxiliary data directly from the display device on the hand-held device (col. 11, lines 30-42).

Nemirofsky fails to disclose a plurality of sequenced LEDs for providing a visual indication of a promotional opportunity available to the user of the hand-held device at redemption, comparing the auxiliary data against prestored data on the hand-held device to determine whether a data match was identified, and successively illuminating an LED of the plurality of sequenced LEDs when the data match was identified to provided the visual indication of the promotional opportunity available to the user of the hand-held device at redemption, wherein the promotional opportunity available at redemption is determined based on the illumination of the plurality of sequenced LEDs.

In an analogous art, Bullock teaches receiving auxiliary data (enabling or cue signal) associated with the promotional opportunities of a sponsor being displayed to a user of a television system, wherein received auxiliary data is compared against stored data to trigger promotional opportunities based on the comparison (col. 2, lines 34-50 and col. 6, lines 11-46), including a plurality of sequenced LEDs for providing a visual indication of a promotional opportunity available to the user (col. 7, lines 20-34), and successively illuminating an LED of the plurality of sequenced LEDs when the data match was identified to provided the visual indication of the promotional opportunity available to the user, wherein the promotional opportunity available is determined based on the illumination of

Art Unit: 2623

the plurality of sequenced LEDs (col. 7, lines 20-54), providing the benefit of enabling promotional opportunities to users contemporaneously with advertisements (col. 6, lines 43-46).

It would have been obvious at the time to a person of ordinary skill in the art to modify the hand-held device disclosed by Nemirofsky to include a plurality of sequenced LEDs for providing a visual indication of a promotional opportunity available to the user, comparing the auxiliary data against prestored data on the hand-held device to determine whether a data match was identified, and successively illuminating an LED of the plurality of sequenced LEDs when the data match was identified to provided the visual indication of the promotional opportunity available to the user, wherein the promotional opportunity available at redemption is determined based on the illumination of the plurality of sequenced LEDs, as taught by Bullock, for the benefit of enabling promotional opportunities to users contemporaneously with advertisements, making the advertisements more effective.

Regarding claim 108, Nemirofsky and Bullock the method of claim 98, wherein the source is a display device and the receiver is a photodetector (as shown above in Nemirofsky, the source is TV 3 shown in fig. 1 and the photodetector is photodetector 70 shown in fig. 5).

Art Unit: 2623

4. Claim 99 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nemirofsky and Bullock as applied to claim 98 above, and further in view of Boggs et al. (4,789,371, of record) [Boggs].

Regarding claim 99, Nemirofsky and Bullock disclose the hand-held device of claim 98, but fail to disclose the hand-held device resembles a snap-shot camera.

In an analogous art, Boggs teaches a toy camera that resembles a snap-shot camera (fig. 1) which simulates a real camera (col. 2, lines 41-47) for the benefit of providing a familiar mechanism to simulate an image pickup device (col. 2, lines 60-68 and col. 4, lines 5-11) to provide entertainment (the device is a toy, col. 1, lines 10-30 and col. 2, lines 41-47).

It would have been obvious at the time to a person of ordinary skill in the art to modify the hand-held device disclosed by Nemirofsky and Bullock to resemble a snap-shot camera, as taught by Boggs, for the benefit of providing a familiar camera-like structure for using the hand-held device in an entertaining way.

### Conclusion

5. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2623

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Art Unit: 2623

## **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.




Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli  
Patent Examiner  
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DS



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